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In re the Matter of:) Case No.: 08-067
)
State of New Hampshire Banking) Order to Show Cause
)
Department,)
)
Petitioner,)
)
and)
)
Option One Mortgage Corporation,)
)
Respondent)
)

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:17, RSA 541-A, BAN 200 and JUS 800 as applicable.

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

The above named respondent has the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at each Respondent's own expense. All hearings shall comply with RSA 541-A. Any such request for a hearing shall be in writing, and signed by the respondent or the duly authorized agent of the above named respondent, and shall be delivered either by hand or certified mail, return receipt requested, to the

1 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
2 03301. Such hearings will be scheduled within 10 days of the request. If the
3 Respondent fails to appear at the hearing after being duly notified, such
4 person shall be deemed in default, and the proceeding may be determined against
5 the Respondents upon consideration of the Order to Show Cause, the allegations
6 of which may be deemed to be true.

7 If the Respondent fails to request a hearing within 30 calendar days of
8 receipt of such order or reach formal settlement with the Department within
9 that time frame, then such person shall likewise be deemed in default, and the
10 orders shall, on the thirty-first day, become permanent, and shall remain in
11 full force and effect until and unless later modified or vacated by the
12 commissioner, for good cause shown.

13 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

14 The Staff Petition dated April 1, 2008 (a copy of which is attached
15 hereto) is incorporated by reference hereto.

16 **ORDER**

17 WHEREAS, finding it necessary and appropriate and in the public
18 interest, and consistent with the intent and purposes of the New Hampshire
19 banking laws, and

20 WHEREAS, finding that the allegations contained in the Staff Petition,
21 if proved true and correct, form the legal basis of the relief requested,

22 It is hereby ORDERED, that the Respondent shall show cause why:

- 23 1. Administrative penalties of \$2,500.00 should not be imposed
24 against the Respondent; and
- 25 2. Statutory penalties of \$3,350.00 should not be imposed against
the Respondent; and
3. Respondent Option's license should not be revoked; and

1 It is hereby ORDERED that:

2 4. Failure to request a hearing within 30 days of the date of
3 receipt of this Order shall result in a default judgment being
4 rendered, license revocation and administrative penalties
5 imposed upon the defaulting Respondent.

6 SIGNED,

7
8 Dated: 4/1/08

9 /s/
10 PETER C. HILDRETH
11 BANK COMMISSIONER
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1 6. The Respondent received the consumer complaint on November 26,
2 2007, which resulted in a response due date of January 25, 2008.
3 From January 25, 2008 to the date of this petition is 67 days,
4 which results in a statutory penalty of \$3,350.00.

5 ISSUES OF LAW

6 The staff of the Department, alleges the following issues of law:

- 7 1. The Department realleges the above stated facts in paragraphs 1
8 through 6.
- 9 2. The Department has jurisdiction over the licensing and
10 regulation of persons engaged in mortgage banker activities
11 pursuant to NH RSA 397-A:3.
- 12 3. RSA 397-A:15-a provides that consumer complaints which are filed
13 in writing shall be forwarded to the licensee for response.
14 Licensees shall, within 30 days after receipt of such complaint,
15 send a written acknowledgement thereof to the consumer and the
16 Department. Not later than 60 days following receipt of such
17 complaint, the licensee shall conduct an investigation of the
18 complaint and either:
- 19 (a) Make appropriate corrections in the account of the
20 consumer and submit to the consumer and the Department
21 written notification of such corrections, including
22 documentary evidence thereof; or
- 23 (b) Submit a written explanation or clarification to the
24 consumer and the Department which sets forth, to the extent
25 applicable, the reasons why the licensee believes its
 actions are correct, including copies of documentary

evidence thereof.

The Respondent violated this provision by failing to submit a response to the consumer complaint.

4. RSA 397-A:15-a II provides that a licensee who fails to respond to consumer complaints within the time prescribed shall pay to the commissioner the sum of \$50.00 per day that such response is overdue.

5. RSA 397-A:21 IV provides that any person who, either knowingly or negligently, violates any provision of Chapter 397-A, may upon hearing, and in addition to any other penalty provided for by law, be subject to suspension or revocation of any registration or license, or imposition of an administrative fine not to exceed \$2,500, or both. Each of the acts specified shall constitute a separate violation, and such administrative action or fine may be imposed in addition to any criminal penalties or civil liabilities imposed by New Hampshire Banking laws.

RELIEF REQUESTED

The staff of the Department requests the Commissioner take the following Action:

1. Find as fact the allegations contained in section I of this petition;
2. Make conclusions of law relative to the allegations contained in section II of the this petition;
3. Order the Respondents to Show Cause why its license should not be revoked;
4. Assess fines and administrative penalties in accordance with RSA 397-

A:21, for violations of Chapter 397-A, in the number and amount equal to the violations set forth in section II of this petition; and

5. Take such other administrative and legal actions as necessary for enforcement of the New Hampshire Banking Laws, the protection of New Hampshire citizens, and to provide other equitable relief.

RIGHT TO AMEND

The Department reserves the right to amend this Staff Petition and to request that the Commissioner take additional administrative action. Nothing herein shall preclude the Department from bringing additional enforcement action under RSA 397-A or the regulations thereunder.

Respectfully submitted by:

/s/
James Shepard
Staff Attorney

4/1/08
Date